

MADISON COUNTY PLANNING DEPARTMENT

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MADISON COUNTY PLANNING BOARD MEETING MEETING MINUTES 1/30/2023

1. **Call to Order:** 6:00 p.m. by President Steve Janzen. Janzen announced the changes in membership to the Planning Board. Lincoln Roberts, Del Bieroth and Maggie Good are no longer on the board.

2. **Roll Call:**

Members Present: Pat Jacobs, Pat Bradley, Steve Janzen, Laurie Schmidt, John Stowe and Darlene Tussing.

Members Virtual: Rita Owens, Tamara Millican-Wood and Betsey Weltner

Staff Present: Michelle Schriock (Planning Clerk), Kristy Harper (Planner I), Connie Dedrick (Planner II) and Ryan Wolter (IT).

Others Present: Cody Marxer (Great West Engineering), Jerry Grebenc (Great West Engineering), Dan Stahly (Stahly Engineering), Brian Mason (applicant – Mile Creek RV Park & Resort), Todd Stotler, Tom Schroeder, Gregg Osland, Kaye Counts, Jecyn Bremer, Kevin Germain, Michael Yoder (applicant for M and E Buildings LLC), Brandon Yoder (applicant for M and E Buildings LLC), Angela Mueller and Richard Stem

Others Virtual: Gerry Arambula, Mike Beach, Elizabeth, Steve Dolcemaschio, Beightol, Bill Maslen, Lisa Beightol Cantwell, Marina Smith, Vivian Linden, Margaret Kent Newton, Ben Wagner, Sue Allen, Ben and Lela, Curtis and Diane Sandau, BH Decker, Joseph Rattman, Kathleen Turner, Fran McNeill, Josh and Olivia Winslow, Stella Lorvan, Julie, Steven R Eckert, Karen and Ken Roll, Ann, Keegan Williams, Del, Brenda, Sam Haak, Jeff Whitmore, Tim Kahn, Glenn G Francis, Dianna Ellis, Steve Decker, Ann, Crystal Mason, Keegan Williams, Zhen Li, Darrell Schulte, Karen Giorgianni, James David Arterburn, Morgan Haak, Saeid/Ellice/Tom, Kate Rose (The Madisonian) Randy Arbogast, David and Natalie Six, Michael Gerhart, Charles Mackie, Diane Haak, Samantha Arbogast, and Tara DePuy.

3. **Opportunity for Public Comment for items not on the agenda:** None.

4. **President's Comments:** None.

5. **Statement of Conflict of Interest/Ex-Parte Communications:**

Jacobs wanted to bring up that her husband has a business relationship with Stahly Engineering and that she has no personal or business relationship with Stahly Engineering or the pre-application that was on the November 28, 2022 agenda.

6. Minutes: November 28, 2022 and November 29, 2022

MOTION TO APPROVE NOVEMBER 28, 2022 MINUTES WITH CORRECTIONS MOVED BY SCHMIDT; SECONDED BY TUSSING. MOTION CARRIED UNANIMOUSLY.

MOTION TO APPROVE NOVEMBER 29, 2022 MINUTES WITH CORRECTIONS AND ADDITONS FROM BRADLEY MOVED BY TUSSING; SECONDED BY JACOBS. MOTION CARRIED UNANIMOUSLY.

7. 6:11 p.m. Pre-Application: M and A Buildings LLC

Dedrick provided a power point presentation and brief overview of this 9.252-acre project. The applicant is here for any questions that the Planning Board may have. The proposed project is located adjacent to US Hwy 55, approximately .04 miles northwest of its intersection with 41-55 Cutoff Road, Whitehall MT. The subject property is situated south of the Silver Bow County line and north of the Jefferson River on US Hwy 55. The proposed single lot subdivision is to remove the subject property from the current agricultural exemption status to construct a 60x200-foot building for a private wholesale truss manufacturing business. Since the primary access will be off US Hwy 55, a MDOT approach permit will be required. There is an existing overhead electric line along the southern property boundary along the existing fence line. The applicant is proposing to drill a well and install a septic system (tank and drain field). No conservations easements, special improvement districts, rural improvement districts or covenants are known to exist on the subject property. An irrigation ditch is located north and west of the subject property. Irrigation water rights affiliated with the subject property will be transferred to the remainder tract as a part of the subdivision process and no Parkland Dedication is required.

Board Questions

Schmidt – There are no other waterbodies besides the ditch? *Yoder – the waterway is in the Northwest Corner.*

Janzen – Industrial use of the land, are there chemicals in process? *Yoder – no besides tools needed to cut and saw the lumber.*

Keegan Williams (virtual) – Any concerns related to vehicle safety? Janzen – stated this is in the pre-application phase and further concern will be addressed during the preliminary plat application stage.

8. 6:16 p.m. Continuation Mile Creek RV Park & Resort

Janzen reminded everyone that the public comment portion of the hearing closed on November 29, 2022 and that any materials or comments that qualify as new information during the public hearing process, or thereafter, will be reviewed by the Board of County Commissioners on February 7th during their regularly scheduled meeting.

Findings of Fact Considerations

The Board resumed deliberations of the Findings of Fact (FOF), page 26, of the original staff report (dated 11/7/22).

Compliance with the Survey Requirements (p. 26): No discussion.

Provision of Easements for Utilities (p. 29): No discussion.

Provision of Legal and Physical Access to Each Parcel (p. 29): No discussion.

Effects on Other Resources in the County (p. 29): No discussion.
Effects on the Local Economy (p. 30): No discussion.
Effects on Public Services Provided by Other Entities in the County (p 31): No discussion.

Compliance with the Madison County Growth Policy: Schmidt- Concerns are addressed within the addendums and supplements.

Janzen: *Has everyone read and reviewed the supplemental information?* Board- Yes.

Public Comment Analysis (PCA)

The Board reviewed the Public Comment Analysis.

Schmidt- Analysis was excellent and did a great job addressing each comment/concern; stated that everything the Board heard and read was captured accurately. Bradley- Agree. Janzen- Agree.

Jacobs- On page 2, concerned that there wasn't sufficient information on FIRE. Janzen requested that Jacobs try to coordinate her comments on the PCA to the Conditions of Approval (COAs). Jacobs obliged.

Schmidt- Cross-referenced the Public Comment Analysis and the Additional Findings; wrote notes on the Additional Findings document.

Janzen recapped that the Board will review each document, then discuss changes to conditions via Additional Findings document. *Any discussion on the Public Comment Analysis?* Board- No.

Additional Findings and Conditions from Public Comment

Janzen clarified that the "Additional Findings and Conditions from Public Comment" are NEW and ADDITIONAL findings and conditions are to be added to the staff report.

Section A, Agriculture: No changes to findings.

Section C, Traffic: No changes to findings.

Section D, Land Stewardship: No changes to findings.

Bradley- Why do we have to keep going back to the findings already discussed in the original staff report?

Janzen- Making sure there are no conflicts. Bradley- Never had this demand for detail on addressing comments.

Section D, Lighting: No changes to findings.

Section D, Historic, Cultural and Scenic Resources:

Schmidt- We are all concerned about water but now we want to plant more trees; seems odd. But if they consult with NRCS, this should be addressed/covered. Tussing- Condition states "should be"; wording should be "shall". Janzen- Can the Board also demand detail on buffer dimensions? Grebenc- Yes.

Bradley- This is out of our purview, should be dictated by NRCS.

Section E, Wildlife and Wildlife Habitat:

Bradley- We have no authority to restrict operations; would move to strike anything restricting operational timelines. Tussing- Thought the landowner suggested this. Bradley- Did not hear that. Janzen- There was a lot of board discussion on wildlife and public comment on this issue; developer discussed this as part of the discussion. Schmidt- We should just ask the developer if he is okay with this. Bradley- We have certain things we can authorize but not this; specific restrictions should be removed from COA's. Janzen-

Reminded the Board that they are obligated to mitigate impacts, which may include time/operational restrictions. Grebenc- This was developed as part of conversations with Tara DePuy, in an effort to mitigate impacts to wildlife. Janzen- The Board can make decisions and can operate with authority to mitigate. Bradley- Tara is advisory only. Grebenc- Statute is clear. At some point you have to have a conversation with the applicant about the proposed mitigation.

Section F, Public Health and Safety, FIRE:

Bradley- All owners in this area have the same risk of fire; seems unfair to make one landowner meet higher standards; seems overreaching. Schmidt- If DES (Joe Brummel) says he is satisfied with the original mitigation, and another development was approved in the same area a few years back without this level of mitigation, then where do we draw the line on precedence. If DES is satisfied, then why would we second guess DES. Stowe- This is my area of expertise and experience; familiar with fire safety. Staffing problem is not just the developer's problem, its everyone's problem. Likes recommending that the developer train his staff to serve the development, but it shouldn't be a requirement. Same should go for AED and First Aid, this should be a requirement of staff. Discussed response times of firefighter who lives in Big Sky. Bradley- Agrees with these thoughts but not for an RV park. Overreaching to require this of a developer that is operating a business. Millican-Wood- We have not required this of other similar ventures/developments, so seems unfair to enforce/require on this project. Jacobs- Agree with AED, First Aid and CPR requirements for staff. Stowe- But should have a way to enforce compliance. Schmidt- Therein lies the problem. Posting emergency info should be done. Stowe- Developer should step up and offer these things. Jacobs- This discussion makes me uncomfortable. We have building codes for seismic standards in our state. There should be an inclusion within the conditions that proof of emergency certifications are valid each year. Concern is that we are on the fringe of service range (time), this is a high-density project, expansive number of people out there; there should be a condition that addresses being responsible. Would like specific language on AED, CPR and First Aid certification in COA's. Janzen- Summarized all these comments, compliance enforcement, and "teeth" the Board has in subregs. Further explained how this condition meets mitigation. Schmidt- Establishing precedent that hasn't historically been required. Bradley- Outside of our statutory authority. Janzen- But we can include mitigation. Weltner- Staff did a good job of covering and responding to concerns/comments. Issue seems to be around requiring things of this developer that were not required of others in the past; enforcing requirements is problematic and lack of enforcement could dilute the authority of the Board; unconstitutional to pass laws/regs restrictive to one individual.

Schmidt- Why would we demand access to water easements (cisterns) year-round but restrict operations seasonally (condition 31)? Seems conflicting.

Section F, PHS, LAW ENFORCEMENT: No discussion.

Section F, PHS, AMBULANCE: No discussion.

Section F, PSH, WATER ETC: No discussion.

Seismic Activity:

Jacobs- Are there seismic requirements for structures and infrastructure? Grebenc- The wastewater and water components are addressed through DEQ; structures have to meet a size threshold to have enforceable requirements.

Trespass and Access:

Schmidt- Not okay with second sentence in the new condition regarding providing a map of public access sites; this is not the business owner's responsibility. Maybe provide signage to identify private property, but anything else is overreach. Bradley- Agree. Millican-Wood- Agree.

Effects on Other Resources in the County: No discussion.

Effect on the Local Economy:

Bradley- If it says "no mitigation" does that mean mitigation is not required or that there is no reasonable mitigation? Janzen- No additional mitigation required. Millican-Wood- If we say that we agree with the FOF, does that mean that we support or agree? How can we say this project WILL impact? Bradley- Agree. These are not findings of fact, these are opinions. Why are we even considering these opinions/comments? We have gotten very far from our regs and statutory requirements. Planners advise us in the best direction. Why? These have nothing to do with statutory authorization. Schmidt- Agree that these are not proven facts, these are opinions. Bradley- And we don't have to consider opinions. Jacobs- I understand that we can establish FOF from the comments/opinions. We are recognizing that this project MAY have impacts. Janzen- Yes, these become the Planning Board's acknowledgment and recommendations to the Commissioners. Grebenc- Yes, you can change the language of these under the law but you do also have to consider all public comment. Jacobs- Change language of new first finding of "Increased traffic from the RV Park MAY affect local county road conditions as RV's...". Discussion on promoting tourism, boosting local economy, and influx of new Montana landowners led by Bradley. Millican-Wood- Second FOF, what about family ranches that utilize VRBO's and other accommodations. Not a fan of the words "does not"; do not believe this to be true. Janzen- We will consider an amendment to this. Bradley- Reminder that these are FOF from public opinion/comment. Simply opinions unless they are addressed by our planners. Statute does not state anywhere that the public is allowed to come in and make conditions/recommendations.

Janzen- *Any other comments on this document?* Board- No.

MOTION TO ACCEPT FINDINGS OF FACT AND CONDITIONS AS PRESENTED BY SCHMIDT; SECONDED BY TUSSING. MOTION CARRIED UNANIMOUSLY.

Discussion followed.

Janzen- *Amendments?*

MOTION TO STRIKE/ELIMINATE THE PUBLIC COMMENT ANALYSIS BY BRADLEY; NO SECOND. MOTION DIES.

Following up on previous Board discussion from previous meeting: Wildlife; addressed in new conditions. On page 24, the Board discussed requiring a cistern; addressed in new conditions. Two approaches; covered in new conditions. Law enforcement and ambulance response; covered in new conditions. Lighting and dark sky compliance; covered in new conditions with language from subregs. Bradley- Read text from Staff Report (page 9); context was provided regarding other development in the area and it's important to consider this. Provided a summary of a news clipping regarding this exact issue. We are requiring so much additional restriction on a project that could benefit the county. We are stretching out to try and deny it; not the Planning Board's role. Please consider this when making recommendations.

Amendments to the new conditions (from Additional Findings and Conditions from Public Comment document)

Historic, Cultural and Scenic Resources:

TUSSING- MOVE TO REPLACE THE WORD “MAY” TO “SHALL” IN SECOND SENTENCE OF FIRST CONDITION MOVED BY TUSSING; SECONDED BY JACOBS. MOTION CARRIED UNANIMOUSLY.

Wildlife: Bradley- Motion to strike the first new condition (page 3). Millican-Wood- But don't we need to mitigate wildlife habitat impacts? Brian Mason- I have considered being open seasonally but would like flexibility, especially since we are limiting development of Lot 2 and adjacent land to the east is in conservation easement. Grebenc- Restated sub regs Appendix 10-5. Millican-Wood- Second the motion. No discussion. Stowe- Motion to amend dates from May 15-September 30 for developer to utilize his property to it's potential in good weather. Bradley- Second the motion. Discussion followed. Jacobs- Change wording from “reduce impact” to “mitigate impact”. Stowe- Amended motion to include Jacob's suggested text amendment.

MOTION TO STRIKE THE FIRST NEW CONDITON (PAGE 3) BY BRADLEY; SECONDED BY MILLICAN-WOOD. MOTION FAILED 6-2.

MOTION TO AMEND OPERATION SEASON DATES FROM MAY 15TH – SEPTEMBER 30TH TO MITIGATE IMPACTS TO WILDLIFE MOVED BY STOWE; SECONDED BY BRADLEY. MOTION CARRIED UNANIMOUSLY.

Comments from Developer:

Brian Mason- Under FIRE section, would like to include the option for a suppression storage pond, in addition to a cistern. He would also would like access to be restricted to operational timeframe. Has no issue to have all staff and family certified in First Aid, CPR, AED but it should be required for all other RV parks, as well. Does not agree with second new condition (page 4); should not have to carry the burden for all other lots in that valley.

PUBLIC HEALTH AND SAFETY, FIRE:

Schmidt- Include "ponds" in first new condition (page 4). Janzen- Should also include language around proper permitting for a pond. Amendment should read "Prior to filing final plat for any phase of this subdivision, subdivider shall install underground or frost proof water cisterns, water storage tanks, or a properly permitted (DNRC) pond on the property, sized according to the recommendation of the local fire district and Office of Emergency Management to assist with fire operation, with access during operating season.

MOTION SUBDIVIDER SHALL INSTALL UNDERGROUND OR FROST PROOF WATER CISTERNS, WATER STORAGE TANKS, OR A PROPERLY PERMITTED (DNRC) POND ON THE PROPERTY, SIZED ACCORDING TO THE RECOMMENDATION OF THE LOCAL FIRE DISTRICT AND OFFICE OF EMERGENCY MANAGEMENT TO ASSIST WITH FIRE OPERATION, WITH ACCESS DURING OPERATING SEASON MOVED BY SCHMIDT; SECONDED BY TUSSING. MOTION CARRIED UNANIMOUSLY, WELTNER ABSTAINED DUE TO POOR INTERNET CONNECTIVITY.

Schmidt- Motion to eliminate new condition #2 (page 4). Stowe- Second. Discussion followed. Jacobs- By eliminating this condition, are we accepting the DES letter that said they could achieve that response time? There was a question at the last meeting about that letter. Schmidt- DES letter felt concerns were mitigated. Jacobs- Response time limitations are in the sub regs. Schmidt- Yes but DES said it had been mitigated.

MOTION TO ELIMINATE NEW CONDITION #2 (PAGE 4) BY SCHMIDT, SECONDED BY STOWE. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEALTH AND SAFETY, LAW ENFORCEMENT:

Millican-Wood- Would prefer the mitigation in this COA to be the condition, eliminating the first sentence (page 5). Motion to amend. Owens- Second. No discussion.

MOTION TO ELIMINATE THE FIRST SENTENCE (PAGE 5) BY MILLICAN-WOOD, SECONDED BY OWENS. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEALTH AND SAFETY, AMBULANCE:

MOTION TO ADD A NEW COA – DEVELOPER WILL ENSURE A MINIMUM OF ONE STAFF FOR TRAINING IN BASIC FIRST AID, AED AND CPR DURING OPERATING SEASON. MOVED BY STOWE; SECONDED BY TUSSING. MOTION CARRIED UNANIMOUSLY.

WASTEWATER, WATER SUPPLY, WATER QUALITY, STORMWATER, AND SOLID WASTE:

No comments or amendments.

Question from Mr. Mason's representative, Brent Miller- Why would Sanitarian review water quality on Lot 2? Grebenc- This is what the subregs require. Should work with Sanitarian on Lot 2 for all of these components.

SEISMIC ACTIVITY:

No discussion or changes.

TRESPASS AND ACCESS:

MOTION TO STRIKE THE LAST SENTENCE OF NEW CONDITION (PAGE 8) MOVED BY SCHMIDT; SECONDED BY BRADLEY. MOTION CARRIED UNANAMOUSLY.

EFFECTS ON THE OTHER RESOURCES IN THE COUNTY:

Discussion followed regarding clarity. Jacobs- Suggested amending language to "The subdivision may have a potential impact on recreational resources..."

MOTION TO CHANGE ANY DEFINITIVE LANGUAGE TO "MAY" OR "MAY NOT" IN ALL FINDINGS OF FACT IN THIS SECTION BY MILLICAN-WOOD; SECONDED BY SCHMIDT. MOTION CARRIED UNANAMOUSLY.

EFFECTS ON THE LOCAL ECONOMY:

Millican-Wood- Move to change any definitive language to "may" or "may not" in all FOF in this section. Schmidt- Second. Discussion followed regarding clarity. Jacobs- Suggested amending language to "The subdivision may have a potential impact on recreational resources...". Millican-Wood- Amended her motion.

MOTION TO CHANGE ANY DEFINITIVE LANGUAGE TO "MAY" OR "MAY NOT" IN ALL FINDINGS OF FACT IN THIS SECTION BY MILLICAN-WOOD; SECONDED BY SCHMIDT. MOTION CARRIED UNANIMOUSLY.

Janzen- *Any additional comments on FOF or COA's that may have been missed?* Board- No.

MOTION: TO APPROVE THE FINDINGS OF FACT AND CONDITIONS OF APPROVAL, AS AMENDED ON JANUARY 30, 2023.MOVED BY SCHMIDT. SECONDED BY TUSSING. MOTION CARRIED UNANIMOUSLY

No discussion. All in favor (unanimous). Motion carried.

Discussion followed.

Jacobs- Noticed discrepancy in RV space numbers assigned to phases. Janzen- First phase is 50 RV spaces. Mason- Clarified that they changed their number (adding two new spaces) during element review. Grebenc- Had phase 1 at 50 spaces, 49 for phases 2 and 3. Miller- Debated on why phase 2 and 3 have to go back through review; requested approval of all phases at one time. Grebenc explained statute and COA that establish this. Board decided to assign 49 slots to phase 1 and 50 to phases 2 and 3. Jacobs- Wondered if we have reviewed to add another slot. Janzen- Overall number did not change. Millican-Wood- What did application state? Because if that has changed, then the whole thing needs to be changed. Discussion verified that application states 148 slots. DePuy verified plat/site plan shows 149 slots but phasing numbers did not add up to 148 or 149. Stuck with what is on the submitted plat. Janzen- But what was on the plat? Grebenc- We reviewed for 148. Jacobs- Any critical calculations that involve one RV space? Grebenc- No. DePuy- If changing spaces in each phase, then it's a material change and is new information. Miller- Most recent plat from 6/8/22 shows 149 total, with 49-50-50 per phase.

MOTION TO RECOMMEND PRELIMINARY PLAT APPROVAL FOR MILE CREEK RV PARK AND RESORT WITH STANDARD, SITE-SPECIFIC AND AMENDED CONDITIONS OF APPROVAL TO THE MADISON COUNTY BOARD OF COMMISSIONERS BY SCHMIDT AND SECONDED BY TUSSING.

DePuy recommended motion based on 50-49-49 and 148 spaces, in accordance with and as reviewed in the Staff Report.

MOTION TO RECOMMEND PRELIMINARY PLAT APPROVAL FOR MILE CREEK RV PARK AND RESORT BASED ON PHASED SITE SPACES OF 50-49-49 (148 SPACES) WITH STANDARD, SITE-SPECIFIC AND AMENDED CONDITIONS OF APPROVAL TO THE MADISON COUNTY BOARD OF COMMISSIONERS BY SCHMIDT AND SECONDED BY TUSSING. MOTION CARRIED UNANIMOUSLY.

This portion of the meeting ended at 9:15 p.m.

9. **Monthly Report:** The Planning Board reviewed the report and likes the new format, it's very informative.

10. **New Business:**

- I. MACo Board Training Packet (included in packet). Discussed scheduling a training session in early summer.
- II. Growth Policy and CIP Surveys. Funding has been secured for both. Best to combine the surveys to avoid public confusion. The feedback will help us with public outreach.

11. **Unfinished Business:**

- I. Nominations – Nomination committee members, Bradley and Owen, presented specific information on the Nomination procedures and motion action to the Board, asking for any questions or clarification of the nomination and voting method. Seeing none, motions follow below.

II. Elections –

**MOTION TO NOMINATE LAURIE SCHMIDT AS PRESIDENT BY BRADLEY; SECONDED BY OWENS.
MOTION CARRIED UNANIMOUSLY.**

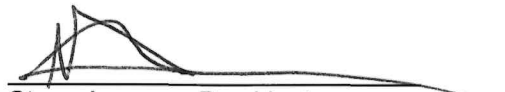
**MOTION TO NOMINATE STEVE JANZEN AS VICE-PRESIDENT BY BRADLEY; SECONDED BY OWENS.
MOTION CARRIED UNANIMOUSLY.**


III. Subdivision Regulations. Discussion of perhaps doing an amendment to the reg's to address: pre-app's, first minors, ODP's, and 15-day notice for public hearing continuance.

12. Planning Board Member Reports: None

13. Adjournment

The meeting was adjourned at 9:43 p.m.


Steve Janzen – President


Michelle Schriock, Secretary